

OCT 24 2008

PTO/SB/01 (09-08)

Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a)		Docket Number (Optional) 10.0444
First Named Inventor: <u>Chetan Jain</u>		Art Unit: <u>2145</u>
Application Number: <u>10/603,995</u>		Examiner: <u>Swearingen, Jeffrey R.</u>
Filed: <u>06-26-2003</u>		
Title: <u>Framework For Enabling Dynamic Construction Of A Network Element Management</u>		Adjustment date: 02/03/2009 CKHLOK 10/24/2008 PCHOMP1 00000004 10603995 -540.00 OP
Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450		Refund Refi: 02/03/2009 0030066225
NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.		Credit Card Refund Total: \$540.00
The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.		Master C: XXXXXXXXXXXX9841
APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION.		
NOTE: A grantable petition requires the following items:		
(1) Petition fee.		
(2) Reply and/or issue fee.		
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995, and for all design applications; and		
(4) Adequate showing of the cause of unavoidable delay.		
1. Petition fee		
<input type="checkbox"/> Small entity - fee \$ _____ (37 CFR 1.17(f)). Applicant claims small entity status. See 37 CFR 1.27.		
<input checked="" type="checkbox"/> Other than small entity - fee \$ <u>540</u> (37 CFR 1.17(f)).		
2. Reply and/or fee		
A The reply and/or fee to the above-noted Office action in the form of _____ (Identify the type of reply):		
<input type="checkbox"/> has been filed previously on _____		
<input type="checkbox"/> is enclosed herewith.		
B The issue fee of \$ <u>\$1510</u>		
<input type="checkbox"/> has been filed previously on _____ 10/24/2008 PCHOMP1 00000004 10603995 01 FC:1452 540.00 OP		
<input checked="" type="checkbox"/> is enclosed herewith.		

(Page 1 of 3)

This collection of information is required by 37 CFR 1.137(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 8 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

- 4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.**

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Christopher L. Bernard/

10/24/2008

Signature

Date

Christopher L. Bernard

48,234

Typed or printed name

Registration Number, if applicable

1901 Roxborough Road, Suite 300

704-790-3600

Address

Telephone Number

Charlotte, NC 28211

Address

Enclosure ☒ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unavoidable delay

☐

CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

October 24, 2008.

Date

Barbara C. Brown
Signature

Barbara C. Brown

Typed or printed name of person signing certificate

[Page 2 of 3]

PTO/SB/81 (00-08)

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED
UNAVOIDABLY UNDER 37 CFR 1.137(a)**

NOTE: The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.

/Lawrence A. Baratta Jr./

10/24/2008

Signature

Date

Lawrence A. Baratta Jr.

59,553

Typed or printed name

Registration Number, if applicable

(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Under MPEP 711.03(c)(1)(A), Applicants respectfully submit that the Notice of Allowance in the above case mailed on 06/30/2008 was never received in the mail. Accordingly, Applicants respectfully request grant of the petition to withdraw the holding of abandonment and remail the Notice of Allowance on the basis of Unavoidable delay.

Practitioner's utilizes IP Master as a docketing system. Attached to this petition is a copy of the record for the above application. Specifically, the last activity docketed in this case was filing an RCE on 03/31/2008. Our procedures include stamping, scanning, and docketing all incoming mail. Practitioner has reviewed the incoming mail log from 06/30/2008 until 07/15/2008, and it did not include a Notice of Allowance for the present case.

Accordingly, Practitioner respectfully states that the Notice of Allowance mailed 06/30/2008 was not received at the correspondence address of record. Further, Practitioner has searched the file jacket for the present case, and it indicates the Notice of Allowance was not received. Practitioner has attached a copy of the front of the file jacket. In the normal course of business, all activity is logged on the front of the file jacket. If the Notice of Allowance had been received, it would be included on the front of the file jacket.

Respectfully Submitted,

Clements Bernard Miller
1901 Roxborough Road, Suite 300
Charlotte, NC 28211
Tel: 704-790-3600
Fax: 704-366-9744

(Please attach additional sheets if additional space is needed.)

(Page 3 of 3)

UNITED STATES PATENT & TRADEMARK OFFICE
Washington, D.C. 20231

REQUEST FOR PATENT FEE REFUND											
1 Date of Request: <u>02/03/09</u>		2 Serial/Patent # <u>10/603,995</u>									
3 Please refund the following fee(s):		4 PAPER NUMBER	5 DATE FILED	6 AMOUNT							
	Filing			\$							
	Amendment			\$							
	Extension of Time			\$							
	Notice of Appeal/Appeal			\$							
X	Petition 1452		10/24/08	\$ 540.00							
	Issue			\$							
	Cert of Correction/Terminal Disc.			\$							
	Maintenance			\$							
	Assignment			\$							
	Other			\$							
			7 TOTAL AMOUNT OF REFUND								
			\$ 540.00								
8 TO BE REFUNDED BY:											
X	Treasury Check <i>Credit</i>										
	Credit Deposit A/C #:										
9	<table border="1" style="display: inline-table; border-collapse: collapse;"> <tr> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px; text-align: center;">--</td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> <td style="width: 20px; height: 20px;"></td> </tr> </table>						--				
		--									
X	No Fee Due (Explanation):										
Petition to revive dismissed as moot, holding of abandonment withdrawn											
11 REFUND REQUESTED BY:											
TYPED/PRINTED NAME: <u>Douglas I. Wood</u>		TITLE: <u>Senior Petitions Attorney</u>									
SIGNATURE: <u>/douglas wood/</u>		PHONE: <u>571-272-3231</u>									
OFFICE: <u>Office of Petitions</u>											
***** THIS SPACE RESERVED FOR FINANCE USE ONLY: *****											
APPROVED: <u><i>CEH/bk</i></u>		DATE: <u>2/3/09</u>									

Instructions for completion of this form appear on the back. After completion, attach white and yellow copies to the official file and mail or hand-carry to:

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Refund Branch
Crystal Park One, Room 802B**